



Crl.O.P.No.5026 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 12 & 11(4) of Protection of Child from sexual Offence Act, 2012, in Crime No.4 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant minor XXX is that she is studying 12th standard and that she was friendly with one Kanagaraj before one year and after sometime, she found his character to be bad and hence, she severed his friendship. But the said Kanagaraj, continued to stalk her and used to abuse her with filthy language and threatened her stating that he would upload her photographs in social media. Hence, this case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as



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alleged by the prosecution and a false case has been foisted against him. He would further submit that there was friendship between the petitioner and the alleged victim and since it was opposed to by her parents, a false complaint has been given. However, he would further submit that the petitioner is ready and willing to file an affidavit of undertaking before the Magistrate at the time of his surrender to the effect that he would not disturb the victim girl and her family members in future. Hence, he would pray for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent police vehemently opposed for grant of anticipatory bail to the petitioner stating that the petitioner used to stalk the victim girl continuously and abused her with filthy language and also threatened her stating that he would upload her photographs in the Social Media. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C.



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5. Heard both sides and perused the materials available on record

including the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Counsel and the fact that the petitioner has come forward to file undertaking affidavit to the effect that he would not disturb the victim girl and her family members in future, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Special Court for Exclusive Trial for POCSO Act Cases, Nagapattinam**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties (out of which, one surety should be either the father or mother of the petitioner)**, each for a like sum to the



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satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter on every Saturday at 10.30 a.m., until further orders and the petitioner shall file an affidavit of undertaking before the learned Magistrate at the time of executing sureties, that he will not disturb the victim girl and her family members in future.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond either during investigation or trial;

[e] on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the



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petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

[f] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

15.03.2023

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